

3 April 2017

PLACES, PEOPLE & PLANNING – A CONSULTATION ON THE FUTURE OF THE SCOTTISH PLANNING SYSTEM: COMMENTS BY THE SCOTTISH PROPERTY FEDERATION

Introduction

The Scottish Property Federation (SPF) is a voice for the property industry in Scotland. We include among our members: property investors including major institutional funds, developers, landlords of commercial and residential property, and professional property consultants and advisers. We are happy for our comments to be published and shared within the public sector.

Key Issues

- The planning system has a major role to play in assuring investors that Scotland is open for business and competitive. We can ill afford any perception that the planning system in Scotland is more difficult to engage and work with. The planning system therefore should deliver the framework for investment by the private sector, the public sector and joint ventures. The real estate sector is a key catalyst for jobs, investment and creating places for people to live, work and enjoy and we need to work together if we are to sustain the economy and investment in Scotland. The focus must remain on growing the Scottish economy in order to expand its tax base and to provide jobs, built environment infrastructure and create great places to work, live and enjoy.
- The debate in the Scottish Parliament on 26 January 2017 indicated a clear interest by MSPs in the issue of ‘third’ or ‘equal’ right of appeal. Our members fully support a front-loaded engagement in the planning process, with procedures for strategic and local development plans designed to facilitate meaningful participation at the earliest stages. **We therefore strongly welcome that third party right of appeal (TPRA) is not included as part of this consultation or recommended by the Independent Review Panel.** We believe that TPRA would be a disincentive to our communities and authorities to engage positively at the start of the planning process and in this respect we see it as a distraction from this package of reforms. There is little doubt that the introduction of TPRA would introduce new and substantial delays into the planning system, and place further strain on local authority resources. There would also be an impact on the delivery of new housing, infrastructure and the risk of placing Scotland at a competitive disadvantage to the rest of the UK.

Consultation Questions

The recommendations in the report offer a strong focus on a planning service that delivers positive outcomes for communities, public leadership and securing investment. Our members have addressed the questions in the consultation as follows:

- **Making Plans for the Future - Annex A page 3**

- **People Make the System Work - Annex B page 11**
- **Building More Homes and Delivering Infrastructure - Annex C page 16**
- **Stronger leadership and Smarter Resourcing - Annex D page 24**

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MAKING PLANS FOR THE FUTURE

SCOTTISH PROPERTY FEDERATION COMMENTS ON CONSULTATION QUESTIONS:

KEY QUESTION

A: Do you agree that our proposed package of reforms will improve development planning?

The planning process itself includes opportunities for local communities to influence the development plan and to comment or even object to development proposals.

Placemaking is vital around a good infrastructure with access to mixed development in particular, but it is equally important to be able to bring forward new development to galvanise the economy and meet a variety of needs for individuals and communities in terms of both employment and accommodation.

The public and private sectors must work together in Scotland to achieve large scale planning delivery in support of local and national economic growth. Engagement is a fundamental tenet of an efficient and effective planning system and must be meaningful, timely and proportionate.

Decisions on development are now keenly assessed by investors who exercise considerable choice over where or whether they locate. It is critical that the planning and wider regulatory systems in Scotland are able to facilitate and encourage investment activity as far as possible in order to sustain investment from global institutions.

The clear focus should be on the Local development Plan as the key local process for implementing private and public development.

1. Do you agree that local development plans should be required to take account of community planning?

1.1. The planning process itself includes opportunities for local communities to influence the development plan and to comment or even object to development proposals. It has been suggested by some members that communities should perhaps be able to choose their priority of community needs and work with local authorities to achieve these. We believe that this approach would be consistent with the findings of the Independent Review which reported in May 2016, which recommended that Community Councils should have a statutory right to be consulted on the development plan.

1.2. There is a risk that community bodies become focused on a single issue that is not necessarily representative of their wider community and therefore any requirement for local development plans to take account of community planning needs careful consideration. Our members are firmly of the view that local development plans should be required to consider community planning but that the statutory development plan agreed by the elected local authority as representatives of the local community should be the primary focus.

- 1.3. There is also a risk of groups possessing different objectives at odds with each other – there needs to be a robust process to deal with any such conflict of views. It is also important to consider that well intentioned policies can run the risk of being misused. It will be important to ensure a proper system of checks and balances that reduce the significant processes that are already built in to the development process in particular. The clear focus should be on the Local development Plan as the key local process for implementing private and public development.
 - 1.4. Communities first of all need to be accepting of a need for change impacting on their community, e.g. Development coming forward within their locality, and embrace this in the creation of their local place plans. They need to understand the strategy of current long term development plans, the factors impacting on viability of developments and that profit is vital for developers.
 - 1.5. Community engagement is a key part of major development and should be meaningful, timely and efficient. We are aware that frustrations are raised by community bodies or those representing community bodies from time to time. Equally from the developer perspective, there can be contradictory and unconstructive input from community groups leading to a sense of delay and uncertainty. The potential award of wider permitted development rights and Simplified Planning Zones when there is clear community support would encourage developers to implement robust and meaningful community engagement measures.
 - 1.6. Our members would be pleased to take part in any working group and support better, early engagement by appropriate and representative community groups at the development planning stage, supported by improved community engagement by applicants at the point of major applications.
- 2. Do you agree that strategic development plans should be replaced by improved regional partnership working? 2(a) How can planning add greatest value at a regional scale? 2(b) Which activities should be carried out at the national and regional levels? 2(c) Should regional activities take the form of duties or discretionary powers? 2(d) What is your view on the scale and geography of regional partnerships? 2(e) What role and responsibilities should Scottish Government, agencies, partners and stakeholders have within regional partnership working?**
- 2.1. A strategic planning tier without the teeth required to enforce individual authorities to deliver land (as with current SDPA's) is not providing enough added value to justify the delays in producing LDPs in certain locations. Scotland is small enough in population to allow regional planning to be addressed in the NPF e.g. housing targets, key strategic infrastructure and importantly location of employment. We would, however, support the need for Regional Council groups to co-ordinate in order to contribute to an improved regional dimension to the NPF. Indeed we believe it is imperative that we have Regional Infrastructure Plans which would be an alternative role for SDPs.

2.2. It is vital to ensure that statutory powers are in place to ensure that all infrastructure providers will be obliged to engage in the planning process and deliver the necessary front funded infrastructure at a city region and local level. Infrastructure constraints are a major challenge for developers in an environment that remains fiscally risk averse. Better coordination of planning and infrastructure plans would address this issue. It is crucial that the key agencies are engaged positively at the regional infrastructure and local development planning stages.

3. Should the National Planning Framework (NPF), Scottish Planning Policy (SPP) or both be given more weight in decision making? 3(a) Do you agree with our proposals to update the way in which the National Planning Framework (NPF) is prepared?

3.1. The NPF should be enhanced with the status of a development plan under s25 of the Act. Consideration should be given to a statutory requirement upon Councils to deliver at least the planning for housing aspect of development plans and this should be reviewed consistently in terms of effective housing land supply via the action programme process – we accept employment land use delivery might be much more uncertain. Currently there is a statutory requirement to produce plans but no requirement to deliver. An ultimate arbiter is required to hand out sanctions to non-conforming Planning Authorities.

3.2. Members would like to see the strictures of SPP followed more consistently by local authorities, particularly in relation to the presumption in favour of development that contributes to sustainable development. The SPP should be put on a statutory basis which would improve the consistency and status of its implementation at local level. There should be no need for each individual Local Development Plan to repeat policies that can be set out at national level.

3.3. As stated above Scotland is small enough in population to allow regional planning to be addressed in the NPF e.g. housing targets, key strategic infrastructure and importantly location of employment. We would, however, support the need for Regional Council groups to co-ordinate in order to contribute to an improved regional dimension to the NPF. Indeed we believe it is imperative that we have Regional Infrastructure Plans which would be an alternative role for SDPs.

3.4. Attracting outside investment is going to be key to sustaining the property sector going forward. We also advocate the closer alignment of private capital and government to deliver infrastructure although this will require a culture change in planning authorities in order to succeed. The recent emergence of City Deals is welcomed by the SPF and may pave the way for a much needed greater scale of investment, but it will have to be targeted carefully throughout the regions to ensure that it is invested in areas where people want to live and work, and developers want to do business.

3.5. The recent emergence of City Deals in Glasgow, Aberdeen and Inverness and soon to be Dundee and Edinburgh is very much welcomed by the SPF and may pave the way for a

much needed greater scale of investment, but it will have to be targeted carefully throughout the regions to ensure that it's invested in areas where people want to live and work, and developers want to do business. A high level of engagement between the public and private sectors is therefore critical to ensure the effectiveness of funds raised and invested. There is no mention in the guidance of the impact City Deals could have on the timescale for adopting local development plans particularly in relation to infrastructure and the impact on Local Authority forecasts for Capital Expenditure. Some of our members have suggested that clarity on what City deals can realistically help to deliver would be helpful. The emergence of City Region Deal funding provides an opportunity to create the right structures for long term regional co-operation in a form that should last beyond the lifespan of individual funding deals themselves.

- 3.6. While many of the Principles for Sustainable Land Use, detailed in the Draft Land Use Strategy (LUS), are positive, there is a crucial issue with Principle "g" which relates to vacant and derelict land. It is welcome that the principles recognise the economic loss represented by such areas of land and that priority should be given to restoring land to productive use. However, the principle does not mention the key need for encouraging investment in pursuit of this. We are of the view that the LUS should send a clear message from a high level that actions to restore derelict land should not only be a priority but should be achieved by encouraging investment. It is critical that the planning and wider regulatory systems in Scotland are able to facilitate and encourage investment activity as far as possible. A stated positive attitude to encouraging investment can only be a support to safeguarding the wider visions, objectives and principles of the strategy.
- 3.7. The relationship between the LUS and the wider policies is not clear. There is a consistent lack of policy cohesion around land use and it can be difficult to ascertain which strategies or plans should relate to which practical land use issues. For example, it is stated in the draft strategy that 1) the Land Use Strategy sits alongside National Planning Framework 3 and Scottish Planning Policy to inform the preparation of Local Development Plans and, on the other hand that 2) "the Scottish Government is clear that the planning system is a delivery mechanism for the Land Use Strategy". These statements confuse the position of the LUS. Although the draft strategy aims to illustrate the relationship it would be useful if an explicit statement were made detailing, firstly which policy objectives inform the LUS and in turn, which policy applications the LUS intends to affect. Of course, such a statement of hierarchy may not be considered possible.
- 3.8. Interpretation of policy is a fundamental issue and our members have concern that the lack of reference in the LUS to a presumption in favour of sustainable development, which contributes to economic growth, may lead to further confusion. This is particularly relevant because the balance and weighting of the decision making process in the LUS does not align with the SPP and the Scottish Government purpose in relation to sustainable development and increasing sustainable economic growth.
- 3.9. A clear linkage to the SPP would certainly be helpful. However, there is a risk of the LUS changing the aims of the SPP particularly in relation to sustainable development and attracting global investment.

- 3.10. An urban pilot could have a positive role to play in supporting the supply of housing land. If a varied membership of the pilot could be achieved, a combination of views from local communities and property developers could result in proposals for housing land allocation which is both in the places that people want to live and which is economically viable for developers. We see it as vital, therefore, that any pilot include equal input from community groups, developers and planning departments.
- 3.11. An urban pilot should give specific focus to bringing derelict and vacant land back into use. It is estimated that there are 11,000 Hectares of derelict land in urban Scotland, a situation which results in significant, ongoing economic and community loss and which goes against the principles and vision of the LUS. Regeneration of these areas is vital to supporting the aims of the LUS. The remit of an urban pilot should therefore include a positive approach to enabling and encouraging development and investment. This should recognise from the outset the importance of identifying the particular infrastructure needed for the regeneration of individual sites.
- 3.12. As stated above Scotland is small enough in population to allow regional planning to be addressed in the NPF e.g. housing targets, key strategic infrastructure and importantly location of employment. We would, however, support the need for Regional Council groups to co-ordinate in order to contribute to an improved regional dimension to the NPF. Indeed we believe it is imperative that we have Regional Infrastructure Plans which would be an alternative role for SDPs.
- 3.13. There should be five yearly reviews but we should aim for a rolling 30 year settlement strategy that will give housing at least a strategic and predictable direction agreed by the Scottish Parliament via the NPF.
- 3.14. Our members have suggested that there should be a fundamental review of Green Belts around Scotland's key cities including their aims/effectiveness, either on a 30 year basis, to fit in with the rolling 30 year settlement strategies, or linked to growth numbers. The original purpose of Greenbelts has become distorted over time and the net effect has been distended travel patterns as a consequence of land use controls that are not delivering the sort of city region environment that is desirable, or indeed sustainable, long-term. Greenbelt land policy should be used as a tool to shape the growth and development of urban centres and therefore the boundaries should continue to be subject to regular review at appropriate stages consistent with the NPF/SPP.
- 3.15. Some of our members have suggested the introduction of National Infrastructure Commissioners similar to elsewhere in the UK with representatives drawn from the private sector as well as the public sector to set the vision and ambition for this essential sector. They have also suggested that the Commissioners should set the standards by which the sector should work taking a long term vision for the country that aligns with the NPF and ensures connectivity.

4. Do you agree with our proposals to simplify the preparation of development plans? 4(a) Should the plan review cycle be lengthened to 10 years? 4(b) Should there be scope to review the plan between review cycles? 4(c) Should we remove supplementary guidance?

- 4.1. As stated at question 3 members would like to see the strictures of SPP followed more consistently by local authorities, particularly in relation to the presumption in favour of development that contributes to sustainable development. The SPP should be put on a statutory basis which would improve the consistency and status of its implementation at local level. There should be no need for each individual Local Development Plan to repeat policies that can be set out at national level.
- 4.2. The main issues relating to site allocation should be dealt with robustly and absorbed into a better proposed plan stage, including with reference to any regional infrastructure issues. The extended LDP process means that they are usually out-of-date when eventually approved. Our members have suggested that the consultation process should be wrapped up into the proposed LDP stage, which would be more efficient and would reduce plan production timescales without compromising the democratic process. Also, once a site has been identified through the development planning stage then it should arguably have greater weight in the decision-making process and possibly be considered by officers under delegated powers, who would consider merits of the development rather than the site itself. This would potentially tie in with the Simplified Planning Zone concept we refer to later.
- 4.3. Interpretation of policy is a fundamental issue and standardisation of development plan policy is key as well as standard s75s. There are some examples of standardisation e.g. zoning for education, transport (the trams) and transport corridors. However this can also cause issues where areas are incomparable e.g. Fife replicating the approach taken in Edinburgh. On this point, we believe that there should be some redress where costly reports demanded by planning authorities clearly are not taken into account by statutory consultees and authorities when making their decisions.
- 4.4. There should be five yearly reviews but we should aim for a rolling 30 year settlement strategy that will give housing at least a strategic and predictable direction agreed by the Scottish Parliament via the NPF.
- 4.5. There should be scope for flexibility and updating local development plans within the 10 year period on the basis that the updates would be short focussed documents. Our members are concerned that additional scrutiny is proposed for non-allocated sites, but changing the plan only every 10 years gives less opportunity for sites to be allocated. There may be a need for a statutory interim LDP review within five years of full LDP publication, which would provide the Planning Authority with the opportunity to refine the current LDP on a long term strategy consistent with NPF and SPP.
- 4.6. Members are firmly of the view that the Local Development Plan Examination should not turn into a lengthy re-run of the local plan process whilst Members are also sensitive to the reaction of Councils when an individual Reporter ends up re-writing a policy, for example,

that has been the subject of extensive local consultation, Committee debate and then finalisation. Shorter, focussed approval processes would be very welcome but they require that Council get the strategy right in the first place. However, equally, with an enhanced SPP and NPF then the approval process for LDPs should become shorter as a direct consequence.

5. Do you agree that local development plan examinations should be retained? 5(a) Should an early gatecheck be added to the process? 5(b) Who should be involved? 5(c) What matters should the gatecheck look at? 5(d) What matters should be the final examination look at? 5(e) Could professional mediation support the process of allocating land?

5.1. Members would welcome the further development of an effective “gate-checking” process as part of the approach to the consistent validation particularly in relation to major applications. Members are clear that the Local Development Plan Examination should not turn into a lengthy re-run of the local plan process whilst they are also sensitive to the reaction of Councils when an individual Reporter ends up re-writing a policy, for example, that has been the subject of extensive local consultation, Committee debate and then finalisation. Shorter, focussed approval processes would be very welcome but they require that Council get the strategy right in the first place.

5.2. Earlier independent involvement in the form of mediation, a gateway or peer review could focus on key aspects of the plan, including the housing land requirement. Only after agreement is reached on key parameters for the plan, should a fuller, locally driven discussion on place and development sites move forward. It is important to ensure that all those with an interest are involved at an early stage. Where early agreement is achieved there should be no need for further scrutiny or intervention at this later stage.

6. Do you agree that an allocated site in a local development plan should not be afforded planning permission in principle?

6.1. Our members are firmly of the view that allocated sites, in an up to date LDP, should have a preferential processing process at the development management stage.

6.2. Even with sites that are fully allocated in a current and up to date Local Development Plan there still seems to be an enormous effort required, on studies, to support the submitting of a detailed planning application and then to support the negotiating process. This can lead to at least a two year period from option completion to securing planning permission, which needs to be speeded up. Simplified Planning Zones (SPZs) for housing would be one means of addressing this alongside the concept that the LDP allocation is fully equivalent to planning permission in principle. But this would be alongside work on infrastructure delivery to ensure that this does not then delay the SPZ based development.

7. Do you agree that plans could be strengthened by the following measures: 7(a) Setting out the information required to accompany proposed allocations 7(b) Requiring information on the feasibility of the site to be provided? 7(c) Increasing requirements for consultation for applications relating to non-allocated sites 7(d) Working with the key agencies so that where

they agree to a site being included in the plan, they do not object to the principle of an application

7.1. Our members support the principles of these measures, but the key criteria in making significant financial and resourcing commitment at an early stage is to ensure fairness in determining a speedy and positive determination of the planning decision. The new legislation should allow for set criteria to be defined, which if met would allow for sites to progress through a pre-set determination period with a positive outcome to follow, based on achievable planning conditions. The emphasis in the defined criteria and process therefore needs to focus on the conditions for development, and not whether development can proceed or not proceed in its' entirety.

8. Do you agree that stronger delivery programmes could be used to drive delivery of development? 8(a) What should they include?

8.1. The public and private sectors must work together in Scotland to achieve large scale planning delivery in support of local and national economic growth. Engagement is a fundamental tenet of an efficient and effective planning system and must be meaningful, timely and proportionate.

8.2. Decisions on development are now keenly assessed by investors who exercise considerable choice over where or whether they locate. It is critical that the planning and wider regulatory systems in Scotland are able to facilitate and encourage investment activity as far as possible in order to sustain investment from global institutions.

8.3. An urban pilot could have a positive role to play in supporting the supply of housing land. If a varied membership of the pilot could be achieved, a combination of views from local communities and property developers could result in proposals for housing land allocation which is both in the places that people want to live and which is economically viable for developers. We see it as vital, therefore, that any pilot include equal input from community groups, developers and planning departments.

8.4. An urban pilot should give specific focus to bringing derelict and vacant land back into use. It is estimated that there are 11,000 Hectares of derelict land in urban Scotland, a situation which results in significant, ongoing economic and community loss and which goes against the principles and vision of the LUS. Regeneration of these areas is vital to supporting the aims of the LUS. The remit of an urban pilot should therefore include a positive approach to enabling and encouraging development and investment. This should recognise from the outset the importance of identifying the particular infrastructure needed for the regeneration of individual sites.

PEOPLE MAKE THE SYSTEM WORK

SCOTTISH PROPERTY FEDERATION COMMENTS ON CONSULTATION QUESTIONS:

KEY QUESTION

B: Do you agree that our proposed package of reforms will increase community involvement in planning?

Community engagement is a key part of major development and should be meaningful, timely and efficient. We are aware that frustrations are raised by community bodies or those representing community bodies from time to time. Equally from the developer perspective, there can be contradictory and unconstructive input from community groups leading to a sense of delay and uncertainty. Communities could benefit from a greater understanding of the planning process so their engagement could be constructive and effective. Facilitating training or education of community groups can help in the early consultation process.

As stated above there is a risk that groups become defined as community bodies that are focused on a single issue, which is not necessarily representative of their wider community. Our members are therefore firmly of the view that local development plans should be required to consider community planning but that the statutory development plan agreed by the elected local authority as representatives of the local community should be the primary focus.

Our members fully support a front-loaded engagement in the planning process, with procedures for strategic and local development plans designed to facilitate meaningful participation at the earliest stages. A third party right of appeal for example would actually be a disincentive to our communities and authorities to engage positively at the start of the planning process. Particular concerns are the potential delays arising, the adverse impact this would have on economic growth, and the potential to undermine the democratic role of local authorities. Concerns about the impact on timescales for planning decisions continues to be a key concern for many stakeholders. There is little doubt that the introduction of a third party right of appeal would introduce new and substantial delays into the planning system, and place further strain on local authority resources, which in many cases are already beyond breaking point. There would also be an impact on delivery of new housing and infrastructure, and the risk of placing Scotland at a competitive disadvantage to the rest of the UK.

It is vital to prevent undue influence on the decision making process being given to those who are most vocal or who seek to frustrate development to serve their own purposes. We should not seek to remove decision-making from local authorities, whose role it is to balance and represent the views of all individuals and communities in their areas.

Our members have noted that the consultation goes much further than the Independent Panel recommended in strengthening local influence and have raised concern that the planning landscape may become more bureaucratic, and much less focused on delivery.

9. Should communities be given an opportunity to prepare their own local place plans? 9(a) Should these plans inform, or be informed by, the development requirements specified in the statutory development plan? 9(a) Should these plans inform, or be informed by, the development requirements specified in the statutory development plan? 9(b) Does Figure 1 cover all of the relevant considerations?

- 9.1. Our members are firmly of the view that while they support greater community involvement in planning, 'local place plans' if they transpire, must be seen as a positive force for change and not as a tool for promoting unreasonable protectionism. There is also a risk that the landscape may become much more bureaucratic, cluttered and less focused on delivery.
- 9.2. Communities first of all need to be accepting of a need for change impacting on their community, e.g. Development coming forward within their locality, and embrace this in the creation of their local place plans. They need to understand the strategy of current long term development plans, the factors impacting on viability of developments and that profit is vital for developers.
- 9.3. It will be important that any form of community 'local place plans' do not duplicate resource, draw focus away from the Local Development Plan itself and that they integrate sufficiently with developer interests and investment.
- 9.4. Communities should perhaps be able to choose their priority of community needs and work with local authorities to achieve these?

10. Should local authorities be given a new duty to consult community councils on preparing the statutory development plan? 10(a) Should local authorities be required to involve communities in the preparation of the Development Plan Scheme?

- 10.1. The potential award of wider permitted development rights when there is clear community support would encourage developers to implement robust and meaningful community engagement measures. We believe that the statutory right for Community Councils to be consulted should be associated with meaningful proactive measures on the part of the Planning and Housing Authorities to establish defined housing growth areas linked with Housing Strategy and Strategic Housing Investment Plans.

11. How can we ensure more people are involved? 11(a) Should planning authorities be required to use methods to support children and young people in planning?

- 11.1. Social media engagement and use of IT can greatly increase accessibility to the planning system for those who are media literate, Facebook, twitter, vine, Instagram can all drive traffic to single points of reference for Council planning portal or developer site to capture opinion / on line surveys / comments but it will only engage those in the population who choose to be interested.

11.2. The salient points of planning policy and framework still need to be understood to prevent NIMBY's and social media requires careful management to prevent organised manipulation (e.g. the recent, much publicised, NERC "Name our Boat" Campaign which led to 'Boaty McBoat Face' receiving the most votes).

11.3. We would like to use earlier enhanced engagement with representative community groups and the industry can play a part in getting schools interested in how we plan our communities.

12. Should requirements for pre-application consultation with communities be enhanced? Please explain your answer(s). 12(a) What would be the most effective means of improving this part of the process? 12(b) Are there procedural aspects relating to pre-application consultation (PAC) that should be clarified? 12(c) Are the circumstances in which PAC is required still appropriate? 12(d) Should the period from the serving of the Proposal of Application Notice for PAC to the submission of the application have a maximum time-limit?

12.1. Our members support better, early engagement by appropriate and representative community groups at the development planning stage, supported by improved community engagement by applicants at the point of major applications. Consultation needs to happen as early in the process of an application as possible to ensure that issues can be addressed effectively and demonstrated as part of any application.

12.2. Community engagement is a key part of major development and should be meaningful, timely and efficient. We are aware that frustrations are raised by community bodies or those representing community bodies from time to time. Equally from the developer perspective, there can be contradictory and unconstructive input from community groups leading to a sense of delay and uncertainty. The potential award of wider permitted development rights when there is clear community support would encourage developers to implement robust and meaningful community engagement measures.

12.3. Our members have expressed concern about the sanctity of advice that is received under the existing process. Members have noted experience of advice given by the Council changing following subsequent internal discussion and on some occasions a difference of opinion over what was actually agreed at pre-application meetings. Members have also noticed that there can be a lack of clear prior discussion within the planning authority prior to formal pre-application meetings. It is not unusual to receive conflicting advice from different parts of the same Authority.

12.4. We support the use of processing agreements but not if they are used as a means of drawing out already long lead in times for development. There are reports of agreements being reissued to suit the prolonged discussions on design, community empowerment agreements, S75 etc. and then a lack of engagement by Planning Authorities. While this helps to meet targets set by the government for application determination timescales it

leads to extensive pre-application periods of up to 2 years in some cases. Guidance on processing agreements that would address these time-scale issues could be helpful.

13. Do you agree that the provision for a second planning application to be made at no cost following a refusal should be removed?

13.1. Our members do not agree with this proposal. There are a variety of reasons why it may be necessary to submit a second planning application. For example as stated above The SPF supports the use of processing agreements but not if they are used as a means of drawing out already long lead in times for development. There are reports of agreements being reissued to suit the prolonged discussions on design, community empowerment agreements, S75 etc. and then a lack of engagement by Planning Authorities. While this helps to meet targets set by the government for application determination timescales it leads to extensive pre-application periods of up to 2 years in some cases. Guidance on processing agreements that would address these time-scale issues could be helpful.

14. Should enforcement powers be strengthened by increasing penalties for non-compliance with enforcement action?

14.1. Our members feel that statutory enforcement powers that are already available to Planning Authorities are not currently being used as they could be. There is little evidence to show compelling reasons for increasing penalties, without firstly making use of the current powers.

15. Should current appeal and review arrangements be revised: 15(a) for more decisions to be made by local review bodies? 15(b) to introduce fees for appeals and reviews? 15(c) for training of elected members involved in a planning committee or local review body to be mandatory? 15(d) Do you agree that Ministers, rather than reporters, should make decisions more often?

15.1. Some members have suggested that there should be a review of the current appeals system, given the backlog of major cases within the DPEA. They have suggested that appeals should be more in the form of “reviews” rather than the form of a Reporter considering an application afresh but with a much more limited level of public involvement that took place for the original application. However they firmly disagree with the proposal for more decisions to be made by local review bodies as this takes away the necessary independence for such a decision. There is a risk of contradictory and unconstructive input from community groups leading to further of delay and uncertainty.

15.2. There is concern about the quality of decision-making by Local Review Bodies. Training can assist, but there is still a perception that some decisions are made for local political reasons, especially those relating to new housing and wind turbines. Reporters frequently overturn decisions made by councilors sitting as planning committees (the

success rate of appeals is approximately 50%), which raises the question of why councilors sitting as LRBs should be given more power to have the final say on developments.

15.3. Our members strongly disagree with the proposal to introduce fees for appeals and reviews. Developers are required to pay substantial sums far in excess of the planning fee for a range of reports including among others; Environmental Impact Assessments, habitat studies, transport assessments, retail impact assessments, and flooding/drainage capacity studies. For a major development these costs may easily run into hundreds of thousands of pounds. If the developer is already forced to pay for all of this advice and in some cases statutory regulation, then the introduction of further fees is likely to make development even more unviable.

15.4. Project management, development finance, mediation and information technology are of critical importance. This applies to all those involved in planning, including the key agencies, developers and their agents as well as local authority planners. Training of elected members should be mandatory, monitored and enforced. A programme of training in community engagement for the development sector should also be rolled out.

15.5. The SPF fully supports the current front loaded approach to the planning system including enhanced community engagement.

16. What changes to the planning system are required to reflect the particular challenges and opportunities of island communities?

16.1. No comment.

**BUILDING MORE HOMES AND DELIVERING INFRASTRUCTURE
SCOTTISH PROPERTY FEDERATION COMMENTS ON CONSULTATION QUESTIONS:****KEY QUESTION****C: Will these proposals help to deliver more homes and the infrastructure we need?**

Viability analysis and a consistent basis for calculating housing land supply is important. The low level of production within the house-building sector is not just a result of a lack of available funding but a direct result of an inadequate land supply.

Housing land supply must take into account the annual production capacity of sites to avoid large releases meeting political requirements, but not actually delivering annual output. Housing land audits need to be more robust and provide improved evidence of effectiveness.

Most community land buy outs have required very significant front end and ongoing subsidy. There is limited experience in promoting and delivering on CPO's in this potential area of work and much more work is needed on the detail of what might be proposed.

17. Do you agree with the proposed improvements to defining how much housing land should be allocated in the development plan?

17.1. The basic building block, which informs our plan led system in relation to housing land supply, is the Housing Needs and Demand Assessments (HNDA). We are concerned that the Housing Needs and Demand Assessments (HNDA) process is not transparent and does not generate an output of adequate, or effective land supply, which can respond to the market place. In the short term a minimum requirement of ten years effective land supply should be adopted for housing. We are also concerned that there is frequently no robust analysis of employment land needs and demand.

17.2. There should be greater onus, in planning legislation, on Local Authorities to carry out more detailed assessment of the full range of housing tenure that can collectively meet Housing Needs and Demand, and to co-ordinate such housing tenure assessment with its wider obligations to provide council housing, schools, libraries, roads, offices and other facilities. The assessments must also address robustly how to account for and respond to underused or empty public sector housing stock.

17.3. There is a disconnect between salaries and house prices but affordable housing should not be used to address rising costs due to lack of supply. The increase in the cost of land effectively puts the brakes on provision of affordable homes and infrastructure becomes unaffordable.

17.4. Some LDPs are minimising identified housing requirement by separating out 'affordable' and 'private' housing requirements. Then using lack of funding for affordable housing to justify not allocating sufficient housing land to meet the total requirement. This

approach is sometimes adopted in areas that are highly attractive to house-buyers and Councils that have historically suppressed housing release, and consequently have greater affordability issues, are now seeking to under-allocate on this basis. Guidance, which addresses this issue would be helpful.

18. Should there be a requirement to provide evidence on the viability of major housing developments as part of information required to validate a planning application?

- 18.1. Viability analysis and a consistent basis for calculating housing land supply is important. The low level of production within the house-building sector is not just a result of a lack of available funding but a direct result of an inadequate land supply. Land prices are reduced as a result of increased land supply and housing land needs to be where people want to live. Economic value is important for location of new houses.
- 18.2. Housing land supply must take into account the annual production capacity of sites to avoid large releases meeting political requirements, but not actually delivering annual output. Housing land audits should be more robust and provide improved evidence of effectiveness.
- 18.3. Planning Officers must be given sufficient training in land economics to allow the submission of viability appraisals under the planning process, if requested, to have a material purpose in promoting viable sites, or in discounting and removing ineffective sites from the process.

19. Do you agree that planning can help to diversify the ways we deliver homes? 19(a) What practical tools can be used to achieve this?

- 19.1. The Build-to-Rent sector (BTR) can provide the opportunity to deliver the required volume and supply of new housing quickly. The multiplier effect of new investment would bring enormous economic benefits and should, be actively encouraged and incentivised. As the growing PRS sector matures and investors are attracted to a stable and sustainable sector there may be benefit in considering PRS as a distinct planning use. It would be helpful to have further clarity as to how applications with this use would be considered. Appropriate guidance from the Scottish Government to Planning Authorities via Heads of Planning Scotland would also be welcome in relation to design specifications.
- 19.2. BTR can provide the opportunity to deliver the required volume and supply of new housing quickly as noted in the guidance. The multiplier effect of new investment would bring enormous economic benefits and should, be actively encouraged and incentivised. The letter to Planning Authorities from the Chief Planner via Heads of Planning Scotland on 7 October 2015 was very welcome and promised further guidance. However, our members are disappointed to note that while this draft guidance draws attention to the emerging BTR sector it falls far short of explaining the fundamental differences between BTR and Build-to-Sell for example design and viability issues.

19.3. Planning challenges facing the BTR sector in Scotland are:

- There is a lack of understanding of this market within LAs and therefore an easy perception that it is the same as conventional housing. Without explaining some of the fundamental differences and the impact on value more clearly, we are not sure that we will ever see the opportunity being grasped at planning and the requirement to treat the emerging market differently.
- The BTR PRS market is in its infancy and a lack of comparable developments anywhere in the UK means that market evidence and informed learning is limited. This makes the risk, and therefore financial viability, challenging, but emerging developments provide the opportunity to learn and inform future policy and strategy.
- BTR PRS will be delivered in a fundamentally different way to conventional housing for sale; the conventional model realises value as each unit is completed and sold, thus delivering profit. The BTR market will realise income as rent, and therefore the route to profit is taken through long-term sustainable income as opposed to a short-term sale.
- As a result, there is a financial viability gap when seeking to deliver large-scale, build-to-rent housing, when compared to build-to-sell models – much lower annual rate of return compared to the traditional build-to-sell model a lower residual land value is generated when compared to build-to-sell models
- This means that access to suitable sites of scale is very limited, with suitable sites likely to derive greater value for alternative uses such as conventional residential, student accommodation, or hotel use. Treating BTR differently from conventional residential would improve viability.

20. What are your views on greater use of zoning to support housing delivery? 20(a) How can the procedures for Simplified Planning Zones be improved to allow for their wider use in Scotland? 20(b) What needs to be done to help resource them?

20.1. Where an application will be considered as a major application within a city authority it should be mandatory that a development brief is drawn up by the local authority planning / economic / and estates departments, where the objectives of the local authority are clearly stated in terms of mix of uses and volume of development acceptable. It would be helpful if the development brief was sanctioned by the local authority planning and economic development committees. Within this agreement the scope for Simplified Planning Zones should be considered, particularly as part of masterplan sites.

20.2. The drawback with simplified planning zones (SPZs) is that the initiative has to come from the local authority. This is a retreat from the Panel’s proposals, which sought to give an elevated status to sites allocated in development plans. There are good examples of councils promoting SPZs for commercial sites, but doing this for housing sites might be less attractive.

21. Do you agree that rather than introducing a new infrastructure agency, improved national co-ordination of development and infrastructure delivery in the shorter term would be more effective?

21.1. The SPF is firmly of the view that the aspirations in this proposal for the co-ordination of investment programmes and working with existing agencies does not go far enough and fully supports the recommendation in the independent Planning Review Report that a new infrastructure Agency should be introduced. Our members are of the view that a National Infrastructure Agency is important to ensure that there is a structure in place for (i) the full co-ordination of diverse funding sources across key agencies, utility providers, local authorities and other public bodies (ii) arrangements for match funding where appropriate between public and private sectors and (iii) potential for distribution of planning gain funds towards disadvantaged development & regeneration areas. Crucially, the corporate structure that was recommended in the Independent Review has not been given clear recognition in the government's response to the Report or in the subsequent consultation document.

21.2. It is vital to ensure that statutory powers are in place to ensure that all infrastructure providers will be obliged to engage in the planning process and deliver the necessary front funded infrastructure at a city region and local level. Infrastructure constraints are a major challenge for developers in an environment that remains fiscally risk averse. Better coordination of planning and infrastructure plans in a more corporate approach would address this issue. It is crucial that the key agencies are engaged positively at the regional infrastructure and local development planning stages.

21.3. Our members are of the view that statutory powers are necessary because to date approved policy, requesting co-operation, ministerial statements and joint working parties have not always delivered the necessary joined up working and infrastructure required to make the planning system effective.

21.4. Key agencies of government perform an important role. SPF has welcomed a refreshed approach to development by senior figures within these key agencies of government over a number of years. However, this refreshed approach to development has not always been experienced by members when dealing with individual case officers. There is also sometimes a further system failure as evidenced by a divergence between the perspectives of key agency staff and those of planning authorities.

21.5. It is important to instil a culture of 'can-do' throughout the planning system. Agencies such as Transport Scotland, the NHS and Scottish Water have been examples of agencies of government, which have not always been aligned in the past with planning at a strategic or local level. While we appreciate that these organisations must deliver within their own budgets and agreed priorities there also has to be mechanism to allow for a linkage to agreed planning priorities.

21.6. Some of our members have suggested the introduction of National Infrastructure Commissioners similar to elsewhere in the UK with representatives drawn from the private sector as well as the public sector to set the vision and ambition for this essential sector.

They have also suggested that the Commissioners should set the standards by which the sector should work taking a long term vision for the country that aligns with the NPF and ensures connectivity.

21.7. Some members have also suggested that the existing Infrastructure Investment Board (IIB) should have wider representation including private sector practitioners who have knowledge and experience in the development sector. They have also suggested that the infrastructure agencies work collaboratively to generate additionally by aligning their budgets with planning objectives.

21.8. Members have also suggested that with the continuing challenges of bringing brownfield/derelict/polluted land forward for development Scottish Enterprise should be empowered/funded to resume the “land” functions that were once vested in the Scottish Development Agency. This is an issue that should be looked at in considering the challenges facing town centres in finding new viable uses for land and premises.

21.9. There are costly delays to infrastructure projects because of relatively few (but well resourced) objections, not least in the public sector and not always related to high profile infrastructure projects. Policy that could preserve the integrity of the system, while speeding up decision-making would be welcome.

22. Would the proposed arrangements for regional partnership working support better infrastructure planning and delivery? 22(a) What actions or duties at this scale would help?

22.1. The SPF welcomes the proposal that Planning Authorities should work closely with other council services and key agencies to identify infrastructure requirements and make use of readily available information by key agencies utilities providers and others as a starting point in developing their spatial strategy.

22.2. Members have argued for many years that the Development Plan should highlight the infrastructure needed for a development to proceed. Members find that it is done in a very generic way i.e. may need education provision, may need health provision, may need road improvements. The SPF understood that under the revised approach to Development Plans and the introduction of Action programming, the local authorities and statutory providers would have been able to indicate what is required and when. In fact, what members have found is that the local authority knows what infrastructure is needed to serve the entirety of the LDP releases, but has no concept of the phased provision of the infrastructure.

22.3. There should be greater onus on Local Authorities to carry out more detailed assessment of the full range of housing tenure that can collectively meet Housing Need and Demand, and to co-ordinate such housing tenure assessment with its wider obligations to provide council housing, schools, libraries, roads, offices and other facilities.

22.4. Our members are firmly of the view that LA’s Executive Management and Council Members should be jointly accountable for decisions taken on the adoption of

Development Plans, and for implementation and monitoring of the Plan, including the viability of key Infrastructure. The mandate to the transport agencies should have a clear statutory basis and be enforceable.

22.5. Attracting outside investment is going to be key to sustaining the property sector going forward. We advocate the closer alignment of private capital and government to deliver infrastructure although this will require a culture change in planning authorities in order to succeed. The recent emergence of City Deals is welcomed by the SPF and may pave the way for a much needed greater scale of investment, but it will have to be targeted carefully throughout the regions to ensure that it is invested in areas where people want to live and work, and developers want to do business.

22.6. As stated above the role of local government pension funds investing in delivery of local capital infrastructure was examined by the Scottish Parliament's Local Government and Regeneration Committee as part of its report to the Finance Committee on the 2015-16 budget. A key point of that consideration was that a good investment for public sector pension funds should provide a revenue stream, such as housing, transport, energy or commercial property.

22.7. Our members have raised concerns that there appears to be an absence of any one organisation in Scotland that is actively co-ordinating UK Treasury Guarantee Scheme for Infrastructure Projects which covers infrastructure funding to energy, transport and housing across the UK, including Scotland. This £40 billion financial guarantee scheme has been running since 2012, but we understand that there is only one housing project approved in Scotland which is at a very early stage and one off-shore windfarm. Under this scheme the banks are provided with an unconditional and irrevocable financial guarantee of scheduled principal and interest in favour of a lender to/investor in a UK infrastructure project and on behalf of the relevant borrower /issuer of debt. Without such a guarantee the banks are unwilling to provide debt finance for infrastructure. The absence in Scotland of an equivalent body to the Homes and Communities Agency puts us at an enormous disadvantage in generating and co-ordinating major investment in housing policy and strategy.

- [UK Guarantees scheme key documents](#)
- <https://www.gov.uk/government/publications/uk-guarantees-scheme-prequalified-projects/uk-guarantees-scheme-table-of-prequalified-projects>.

23. Should the ability to modify or discharge Section 75 planning obligations (Section 75A) be restricted?

23.1. The ability to challenge, using the section 75A procedure, is an important check and balance to ensure that planning authorities do not seek excessive or unjustified contributions. A planning authority that complies with the Scottish Government guidance on the use of planning agreements should have no reason to be concerned about potential challenge. The evidence does not indicate that uncertainty is a widespread problem. There has been no avalanche of appeals, and only a handful have been successful.

- 23.2. Introducing restrictions on the use of the section 75A procedure risks more cases going to court, with greater delay and expense.
- 23.3. There is a risk that restricting the section 75A procedure would create an impasse between the developer and the planning authority, which delays the issue of planning permission and therefore the start of the development. The section 75A procedure enables the development to start while the developer contribution is challenged.
- 23.4. The system of developer contribution remains a sensitive and difficult issue for developers and planning authorities alike. Legal negotiations on average take over a year to agree while private sector funding for infrastructure is difficult to obtain and the system is overall slow, adversarial and controversial. The delays may be for a variety of reasons including project management and resource priorities. It may be that better partnership arrangements with private sector applicants may overcome some of these challenges, for example by the private sector resourcing draft legal agreements so that the execution of the legal agreement does not become bogged down in process and delay. It is clearly time the current approach to developer contribution is reconsidered. However, any system of cumulative contribution should be considered in the light of the planning review and consulted on thoroughly.
- 23.5. Strong concerns with the level of obligations required by Planning Authorities and members believe that they undermine the financial viability of development. There is a growing sense of reality from planning authorities that assumptions made about the extent of planning contributions made in previous economic times are no longer viable. However, this is not uniform and there is a concern that demands may be made for contributions equivalent to the full expectation of infrastructure being delivered and required even if is highly unlikely that the infrastructure will actually be operating in the near or medium term. Our members have also questioned whether full developer contribution to cost is acceptable in principle and consistent with good planning law. They have suggested that there could be a test on wider community benefit that is gained outwith direct development consent.
- 23.6. Members welcome examples of phasing of contributions to assist with the viability of development and the flexibility to forgo or commute contributions from developers towards the provision of affordable housing. They would also welcome clear guidance that developer contributions will only be necessary where clearly required to enable development to be acceptable in planning terms and will be proportionate and relevant to the scale and nature of development proposed. Some members have suggested that private rented sector build to rent projects should also be exempt from most developer contributions to support their viability and to enhance 'affordable' housing supply.
- 23.7. Our members describe a widely varied landscape with one authority in particular firmly of the view that annual Scottish Government Education funding must be spent on existing stock and there is no available funding for growth. There is however experience of more flexibility in other authorities. Private developers therefore mainly have to pick up the full bill for education in development areas, but have very restricted capability in Scotland to procure public sector buildings, other than to provide cash.

23.8. A key concern of members is how to bring more control to the party providing the finance, or if the provision of finance is shared how the funder can have some control over what the funding is being spent on. There is also a wider issue as to whether or not the current educational estate is being used to best effect. There is a view amongst some educationalists that the focus should be on remodelling the education system rather than on new buildings. The case for the constant provision of new, expensive facilities is not always evident.

24. Do you agree that future legislation should include new powers for an infrastructure levy? If so, 24(a) at what scale should it be applied? 24(b) to what type of development should it apply? 24(c) who should be responsible for administering it? 24(d) what type of infrastructure should it be used for? 24(e) If not, please explain why.

Our members have expressed some concern that the introduction of an infrastructure levy could lead to an increase in the cost of development if the impact is not considered very carefully. It is critical that lessons would have to be learned from CIL in England to ensure no duplications with s.75 in considering the form any powers would take.

There's generally an acceptance that there's a slight premium paid for new build houses over re-sales, but that's normally as a result of the guarantee that would come with a new build property, and the aspiration for some purchasers to buy pristine property. Notwithstanding that the new build market is heavily influenced by the comparable re-sale market, which comprises a much greater level of annual transactions.

Some of our members have suggested that the cost of an infrastructure levy is comparable with the introduction of green technology/low energy devices which some house builders have tried to introduce as priced options in their housing ranges. However, experience shows that purchasers are unwilling to buy the additional priced options, and the RICS's red book rules do not take account of them in housing valuations. The RICS is likely to take the same approach, should an infrastructure levy be introduced.

As stated at question 22 our members are of the view that a National Infrastructure Agency would be critical to ensure that there is a structure in place for (i) the full co-ordination of diverse funding sources across key agencies, utility providers, local authorities and other public bodies (ii) arrangements for match funding where appropriate between public and private sectors and (iii) potential for distribution of planning gain funds towards disadvantaged development & regeneration areas.

25. Do you agree that Section 3F of the Town and Country Planning (Scotland) Act 1997, as introduced by Section 72 of the Climate Change (Scotland) Act 2009, should be removed?

25.1. Yes, our members are of the view that improvements in carbon reduction and energy efficiency should be attained through the application and review of Building

Standards, in the context of progressive building technology, not through the planning system.

STRONGER LEADERSHIP AND SMARTER RESOURCING**SCOTTISH PROPERTY FEDERATION COMMENTS ON CONSULTATION QUESTIONS:****KEY QUESTION**

D: Do you agree the measures set out here will improve the way that the planning service is resourced?

Our members believe Places, people and planning: a consultation on the future of planning in Scotland is a welcome step in the direction of giving our planning service a platform for improvement. The property industry is increasingly reliant on global capital and if we are to drive local economic growth, jobs and investment we must have strong public leadership and an efficient and aspirational planning service. The recent set of quarterly statistics published by the Scottish Government demonstrated a notable trend of reducing numbers of major planning determinations that continue to take longer to achieve. We need the planning system to show strong leadership, support appropriate development and welcome new investment in our built environment.

The property industry has already said it would be prepared to pay higher fees for a better service. We would like to see a greater understanding by the public sector however, of the upfront costs the private sector already pays towards delivering the planning service and the risk involved. We agree with the independent review that the service is currently too bogged down in process and procedure and welcome and support a more aspirational and visionary future role for the planning service.

The development industry fully supports the aspirations expressed in the consultation paper on co-ordination of investment programmes and working with existing agencies and is keenly interested in seeing the recommendations of the Independent Panel of the need for an Infrastructure Agency and an Infrastructure Fund taken forward. This should offer the opportunity of greatly improved infrastructure delivery that will unlock development while at the same time retaining the viability of development projects. Infrastructure delivery is a key challenge under the current system and it will be a test of success for the proposals in the consultation paper.

There is a good deal of inconsistency across planning authorities and evidence of planning reform and culture change is at best patchy. An approach to delivering planning comprising adjoining planning authorities and key agencies via the action programme could address this and provide stronger leadership. The status of planning departments in the Local Authority hierarchy should be addressed with stronger and clearer leadership and a closer alignment to economic development.

26. What measures can we take to improve leadership of the Scottish planning profession?

- 26.1. Leadership demonstrated by Local Authorities is absolutely vital in securing investment and there are excellent examples of local authority leadership by senior planning officials in Scotland, notably Dundee and Inverness among others. Heads of Planning Scotland helps to distil best practice and to share common challenges for these key officials (which we welcome and support positively). But it can be confusing for investors as to whether the leadership should come from the authority CEO, leader of

relevant Economic/Planning Director. Key agencies of government also perform an important role.

26.2. SPF has welcomed a refreshed approach to development by senior figures within these key agencies of government over a number of years. However, this refreshed approach to development has not always been experienced by members when dealing with individual case officers. There is also sometimes a further system failure as evidenced by a divergence between the perspectives of key agency staff and those of planning authorities. It is important to instil a culture of 'can-do' throughout the planning system.

27. What are the priorities for developing skills in the planning profession?

27.1. Our members consider that this is a very major issue that will require multi-agency consideration. The enhancement of performance by Planning Authorities will encompass changes to the degree and post-graduate planning and related courses, changes to training when working (skills development) and perhaps a measure of "high-flyers" technical and management training that will involve time away from the office, exchanges, and perhaps working, eventually for more than a single planning authority. However, if there is a will, then this can be tackled and members would be willing contribute to this process.

27.2. Some of our members have suggested reviewing the requirements for continuing professional development requirements in the planning profession, including the competencies currently undertaken as part of this process. In particular our members are firmly of the view that the requirements for updated training in development finance is a key requirement. This could also be extended to a mentoring system where knowledge is passed to less experience colleagues to maintain a consistent approach in all applications.

28. Are there ways in which we can support stronger multidisciplinary working between built environment professions?

28.1. There is a good deal of inconsistency across planning authorities and evidence of planning reform and culture change is at best patchy. An approach to delivering planning comprising adjoining planning authorities and key agencies via the action programme could address this and provide stronger leadership. The status of planning departments in the Local Authority hierarchy should be addressed with stronger and clearer leadership and a closer alignment to economic development.

28.2. This work also needs to consider the contribution that the private sector might be able to make via short term support contracts combined with mentoring. This could be a resource that would be available on a relatively low cost basis.

29. How can we better support planning authorities to improve their performance as well as the performance of others involved in the process?

29.1. Members have two principal issues here. The first would be to ensure that the higher fee income is properly ring fenced for use within Council's planning services. The second would be to ensure that there are "SMART" indicators of performance that are regularly monitored to ensure that performance improvements are delivered. If they are not then there needs to be a refunding provision.

30. Do you agree that we should focus more on monitoring outcomes from planning (e.g. how places have changed)? 30(a) Do you have any ideas on how this could be achieved?

30.1. Our members are concerned that this proposal carries a risk that resources would be diverted from an already stretched planning service for little benefit. If planning has been granted and the sustainable development required by the SPP has taken place our members struggle to see what could be gained from looking at outcomes in relation to how places have changed.

30.2. More emphasis should be placed on developing publicly available performance targets using regularly monitored 'SMART' indicators alongside a resource strategy to demonstrate how the planning authority will improve services and a refunding mechanism should be implemented.

31. Do you have any comments on our early proposals for restructuring of planning fees?

31.1. Developers are required to pay substantial sums far in excess of the planning fee for a range of reports including among others; Environmental Impact Assessments, habitat studies, transport assessments, retail impact assessments, and flooding/drainage capacity studies. For a major development these costs may easily run into hundreds of thousands of pounds. If the developer is already forced to pay for all of this advice and in some cases statutory regulation, then this also must be weighed in the balance when considering an increase in planning application fees.

31.2. The SPF welcomes the proposal that the new fees are to remain competitive with like for like charges south of the border. Our members are firmly of the view that it is critical that Scotland maintains its competitiveness. To grow the economy, we must kick-start more development across the commercial and residential sectors. Modern major development is a very complex business involving a plethora of regulatory requirements, complicated finance and risk. In the main the current development market in Scotland is generally flat with only a few better performing locations. It is therefore vital that Scotland maintains a competitive edge.

31.3. Planning resource and performance is a key issue and members agree strongly with the view expressed by Scottish Ministers and the Independent Review that fee increases must be related to improved performance. There is, however, little guarantee that additional resources raised via fees will be put towards the planning service. Indeed, there is no promise that the fees will be ring-fenced for planning services. These significantly increased planning fees must lead to a notable improvement in the efficiency and quality of

decision making, particularly with regard to major applications. The fees must also demonstrably improve local planning services.

31.4. Members are firmly of the view that “SMART” indicators that are regularly monitored to ensure performance improvements are delivered, should be implemented and made publicly available. If they are not then Ministers must consider a refunding provision.

31.5. The Independent Review of the Scottish Planning System was published in May 2016, and The Scottish Government has progressed a number of key recommendations of the Review in a further consultation paper “Places, people and planning” published in January 2017. The latest consultation reiterates the need to invest in a better planning service to ensure better resourcing, and also urges a new approach to improving performance. These proposals are derived from a wider range of recommendations set out in the previous Independent Review. Our members are strongly of the view that more significant progress is required to move towards achieving the recommendations of that Review and the commitments now presented in the recent consultation document, including the introduction of new planning fee scales. We would strongly recommend therefore, that new performance targets are set for Planning Authorities and a resource strategy statement is issued by The Scottish Government in conjunction with the introduction of new fee charges to ensure the confidence of applicants is maintained.

32. What types of development would be suitable for extended permitted development rights?

32.1. Planning Authorities must have the ability to be flexible and responsive to changing demands for land use. Our members report pressures on industrial land intended for SMEs in several parts of Scotland. Where such demands for jobs exist it will be important to be able to respond effectively and positively. The government may wish to consider the case for enhanced Permitted Development Rights including the ability to expand and/or re-use quickly existing business and industrial buildings.

32.2. Community engagement is a key part of major development and should be meaningful, timely and efficient. We are aware that frustrations are raised by community bodies or those representing community bodies from time to time. Equally from the developer perspective, there can be contradictory and unconstructive input from community groups leading to a sense of delay and uncertainty. The potential award of wider permitted development rights when there is clear community support for that approach and for the individual measures would encourage developers to implement robust and meaningful community engagement measures.

33. What targeted improvements should be made to further simplify and clarify development management procedures? 33(a) Should we make provisions on the duration of planning permission in principle more flexible by introducing powers to amend the duration after permission has been granted? How can existing provisions be simplified? 33(b) Currently developers can apply for a new planning permission with different conditions to those

attached to an existing permission for the same development. Can these procedures be improved? 33(c) What changes, if any, would you like to see to arrangements for public consultation of applications for approvals of detail required by a condition on a planning permission in principle? 33(d) Do you have any views on the requirements for pre-determination hearings and determination of applications by full council?

33.1. It is SPF's understanding that there is a reluctance on the part of planning authorities to grant planning permission in principle for commercial developments as it is not deemed possible to determine what a commercial unit may end up being. There is therefore a risk that the government's placemaking agenda and policies would be missed as developments would be restricted to housing and there would be a lack of flexible mixed use development with amenities and leisure facilities where people would like to live and work. We believe it should be quite feasible to award PPiP to major commercial developments on the basis of defined planning uses.

33.2. It's essential that there should be flexibility on the provisions for duration of PPiP in view of the long term development period that often applies to major development projects, potentially spanning economic cycles.

33.3. New applications to vary conditions applicable on existing planning consents could be classed as Permitted Development if there are no economic or technical detriments that arise from the proposed changes. For example, it may be for Roads Officers only to determine whether an application to vary conditions on transport capacity meet requirements as identified in up to date transport assessment.

33.4. Our members are satisfied with existing provisions for consultation on applications for matters specified in conditions associated with PPiP.

33.5. In general it's the SPF view that pre-determination hearings and determination by full Council Committee should apply only in exceptional circumstances. It may be considered exceptional where a major application is fundamentally in conflict with the LDP or SPP. That may not necessarily be the case however where a site is not allocated in the LDP, but could go forward as windfall development. In the majority of cases the discretion of planning professionals should apply over ad hoc use of Council Hearings.

34. What scope is there for digitally enabling the transformation of the planning service around the user need?

34.1. As already stated social media engagement and use of IT can greatly increase accessibility to the planning system for those who are media literate, Facebook, twitter, vine, Instagram can all drive traffic to single points of reference for Council planning portal or developer site to capture opinion / on line surveys / comments but it will only engage those in the population who choose to be interested.

34.2. The salient points of planning policy and framework still need to be understood to prevent 'NIMBY's' and social media requires careful management to prevent organised manipulation.

